

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

Department of Health  
Office of Adjudication and Hearings  
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DISTRICT OF COLUMBIA  
DEPARTMENT OF HEALTH  
Petitioner,

v.

DAVID F. DORROS  
Respondent

Case No.: I-00-10001

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**DECISION AND FINAL ORDER**

**I. Introduction**

By Notice of Infraction dated January 12, 2000, Respondent was charged with violating 21 DCMR 502.1, which requires a person who engages in land disturbing activities in the District of Columbia to obtain a building permit, which shall not be issued until the applicant develops an approved erosion and sedimentation plan. The Notice of Infraction (NOI No. 00-10001) sought a penalty of \$500.00. Respondent failed to submit a timely response to the Notice of Infraction. Accordingly, on February 11, 2000, the Chief Administrative Law Judge issued an order finding Respondent in default and imposing a penalty of \$500.00 for Respondent's failure to respond in addition to any fine for the underlying violation for which Respondent may be liable.

On February 24, 2000, this Office received a letter from Respondent, which has been construed as a plea by Respondent of Admit with Explanation. On that same day, the Chief Administrative Law Judge issued an order permitting, but not requiring, the Government to respond to that plea. No such response has been received. The matter is now ripe for final decision and has been assigned to me for that purpose.

## **II. Summary of the Evidence**

The site at issue is located at 4915 Glenbrook Road, N.W. Respondent states that he was undertaking construction work there, including a pool addition, certain remodeling and landscaping activities. Respondent apparently had obtained a building permit for the pool addition and remodeling work, but not the landscaping. Upon receipt of the Notice of Infraction, Respondent states that he made immediate arrangements with a consultant to prepare the necessary sediment control plan to encompass all three aspects of the project. Respondent states that he did not respond to the Notice of Infraction because he believed that he was required only to appear on the hearing date with proof that all the appropriate permits had been issued.

## **III. Findings of Fact**

1. Respondent, by pleading Admit with Explanation, has admitted his liability for violating 21 DCMR 502.1 as charged in the Notice of Infraction.
2. Respondent made prompt good faith efforts to come into compliance by contracting for the preparation of a sediment control plan for the entire project.

3. Respondent had obtained proper permits for most aspects of the project, and his violation was unintentional.
4. Respondent has accepted responsibility for his offense.
5. The Notice of Infraction clearly states that failure to respond within fifteen days will result in the assessment of an additional penalty. Respondent's belief that he need do nothing but show up for a hearing was unreasonable.

#### **IV. Conclusions of Law**

1. Respondent violated 21 DCMR 502.1 on January 12, 2000.
2. Respondent's violation was unintentional. Indeed, Respondent undertook good faith efforts to ensure that his project had obtained all required permits.
3. Suspension of the fine proposed in the Notice of Infraction is not appropriate, but a reduction in the amount of the fine is warranted in light of Respondent's acknowledgement of responsibility, his prior good faith efforts to comply, his prompt efforts to correct the violation and the unintentional nature of the violation. Accordingly, the fine shall be reduced to \$200.00.
4. Respondent has not established good cause for his failure to respond to the Notice of Infraction, as required by D.C. Code § 6-2712(f). Accordingly, the \$500.00 penalty imposed by the Chief Administrative Law Judge's order of February 11, 2000, shall not be suspended or reduced.

Therefore, upon Respondent's answer and plea, application for suspension of the fine and the default filing penalty, and the entire record in this case, it is hereby, this \_\_\_\_\_ day of \_\_\_\_\_, 2000:

**ORDERED**, that Respondent is liable for violating 21 DCMR 502.1 and the fine shall be reduced from \$500.00 to \$200.00; and it is further

**ORDERED**, that the \$500.00 default penalty imposed by this administrative court on February 11, 2000, shall not be suspended or reduced; and it is further

**ORDERED**, that Respondent shall cause to be remitted a single payment of **SEVEN HUNDRED DOLLARS (\$700.00)** in accordance with the attached instructions within twenty (20) calendar days of the date of mailing of this Order (fifteen (15) calendar days plus five (5) days for service by mail pursuant to D.C. Code § 6-2715). A failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's license or permit pursuant to D.C. Code § 6-2713(f).

/s/      **5-26-00**

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John P. Dean  
Administrative Judge